Control Number: 51415

Item Number: 635

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2021 JUL -1 PM 1:51

SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN	§	BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY FOR	§	OF
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

CITIES ADVOCATING REASONABLE DEREGULATION'S

PROPOSED FINDINGS OF FACT AND CONCLUSSIONS OF LAW

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July 1, 2021

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SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

CITIES ADVOCATING REASONABLE DEREGULATION'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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CITIES ADVOCATING REASONABLE DEREGULATION'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to SOAH Order No. 2, the Cities Advocating Reasonable Deregulation ("CARD") timely submit their Proposed Findings of Fact and Conclusions of Law to be included in the Proposal for Decision and Commission's Final Order in this proceeding.

I. FINDINGS OF FACT

Dolet Hills Power Station

1. SWEPCO's generating plant at Dolet Hills is expected to be retired by December 31, 2021. [CARD Exh. 2 – M. Garrett Dir. at 3]

2. In SWEPCO's last rate case, Docket No. 46449, the Commission rejected SWEPCO's proposal to accelerate depreciation on the early-retired Welsh 2 Unit and ordered that the Company recover the remaining costs of that plant unit over its original useful life of 24 years. [CARD Exh. 2 – M. Garrett Dir. at 5]

3. SWEPCO's proposal to accelerate recovery of the undepreciated balance of Dolet Hills over four years conflicts with the Commission's decision in Docket No. 46449. [CARD Exh. 2 – M. Garrett Dir. at 5]

4. Neither GAAP nor standard regulatory practice support the Company's proposed treatment of accelerated depreciation of an early plant retirement. Instead, the proper accounting and regulatory treatment is to move the unrecovered Dolet Hills balance at retirement to a regulatory asset account and to recover that balance over whatever period is appropriate. [CARD Exh. 2 – M. Garrett Dir. at 11]

5. It is appropriate to spread the recovery of the undepreciated balance of Dolet Hills using its currently approved depreciation rates because opportunities arise to offset some of the costs

with other savings, such as from improved technologies, increased operating efficiencies, lower capital costs, or load growth. [CARD Exh. 2 – M. Garrett Dir. at 5-7]

6. Recovery of the undepreciated balance of the Dolet Hills plant using its currently approved depreciation rates is consistent with the treatment in other jurisdictions of coal plants retired by AEP. [CARD Exh. 2 – M. Garrett Dir. at 8-10]

7. Congress approved the Tax Cut & Jobs Act of 2017 ("TCJA") in December of 2017. The TCJA reduced the corporate Federal income tax rate from 35% to 21% effective January 1, 2018, a 40% reduction in the tax rate. For utilities, the TCJA created large EDFIT balances which represent federal income taxes collected from ratepayers at the higher tax rate (35%) that the utility would no longer be required to remit to the government because the tax rate was lowered to 21%. The TCJA provides that the EDFIT balances must be classified as protected or unprotected. [CARD Exh. 2 – M. Garrett Dir. at 4]

8. SWEPCO has proposed to use the unprotected EDFIT and the protected EDFIT balances amortized through March 31, 2021 to offset the net book value of Dolet Hills. However, because the amount of available EDFIT will not completely offset the plant's undepreciated balance, SWEPCO proposes to depreciate the remaining unrecovered balance of Dolet Hills over the next four years. [CARD Exh. 2 – M. Garrett Dir. at 4]

9. The Texas portion of the available EDFIT is $30,408,645. This consists of $23,000,070 of unprotected EDFIT and $7,408,575 of amortized protected EDFIT. [CARD Exh. 2 – M. Garrett Dir. at 4]

10. Ratepayers are entitled to receive SWEPCO's EDFIT balances regardless of the Commission's treatment of the Dolet Hills costs. [TIEC Exh. 4 –LaConte Dir. at 14]

11. SWEPCO's proposal to offset its unrecovered Dolet Hills investment with the available EDFIT balances is inappropriate. Rather, the available EDFIT balances should be refunded to customers over a 4-year period. This treatment corresponds with SWEPCO's 4-year rate case cycle. [CARD Exh. 2 – M. Garrett Dir. at 12]

12. The annual amortization of the EDFIT balances is a ratepayer credit of $7,602,161. Retaining the current depreciation rate for Dolet Hills, which is based on a life of 25 years, reduces the Company's proposed depreciation expense by $705,313. The combination of these

adjustments is an annual rate reduction of $8,307,474 for ratepayers on a Texas Retail basis. [CARD Exh. 2 – M. Garrett Dir. at 12]

13. Once the Dolet Hills plant is retired at the end of 2021, it will no longer be used and useful and should not be included in rate base earning a return. [CARD Exh. 2 – M. Garrett Dir. at 13]

14. In Docket No. 46449, the Commission determined that Welsh Unit 2 was no longer used and useful and could not include its investment associated with the plant in its rate base, nor earn a return on the remaining investment. [CARD Exh. 2 – M. Garrett Dir. at 13]

15. In order to ensure that customers are not paying a return on a plant that is not used and useful, it is reasonable to require SWEPCO to establish a regulatory liability to accumulate the return on the remaining balance of the Dolet Hills plant at the time of its retirement on December 31, 2021 until the establishment of new rates in its next base rate case. [CARD Exh. 2 – M. Garrett Dir. at 13-14] ***[***This FOF 15, and not FOF 16, is the appropriate FOF in the event that the Commission issues a Final Order on or before December 31, 2021. See CARD's Reply Brief at pp. 3-4.***]***

16. To ensure that customers are not paying a return on a plant that is not used and useful, it is reasonable to remove the Dolet Hills plant from SWEPCO's rate base because it will not be used and useful during the Rate Year. ***[***This FOF 16, and not FOF 15, is the appropriate FOF in the event that the Commission issues a Final Order after December 31, 2021. See CARD's Reply Brief at pp. 3-4.***]***

<u>Coal and Lignite Fuel Inventories</u>

17. SWEPCO proposes to include $79 million (inclusive of Dolet Hill's lignite inventory) in rate base for coal and lignite fuel inventory; however, this request is based on unjustified inventory targets that do not reflect the reduction in energy produced from the Company's coal and lignite units over the last several years. [CARD Exh. 3 – Norwood Dir. at 7]

18. SWEPCO's requested coal- and lignite-fuel inventory reflects the estimated quantity of fuel necessary to operate SWEPCO's ownership share of the Welsh, Turk, Flint Creek, and Pirkey generating units for 30 days at continuous full load production levels, and to operate the Company's Dolet Hills plant at 45 days at full load. [CARD Exh. 3 – Norwood Dir. at 8]

19. From 2014 through 2019, the total energy production level of SWEPCO's coal and lignite units has decreased by approximately 36.5%, and is forecasted to continue to decrease over the next several years with the scheduled retirements of the Dolet Hills and Pirkey Power Plants. [CARD Exh. 3 – Norwood Dir. at 8]

20. SWEPCO plans to continue to decrease its use of coal and lignite into the future, as AEP/SWEPCO aim to achieve net-zero carbon emissions by 2050, AEP has retired or sold 13,500 megawatts of coal fired generation from 2011 to 2021, and AEP has announced plans to add more than 10,000 megawatts of renewables by 2030. [HOM TR. Vol. 1 at 52:10-25]

21. In light of AEP/SWEPCO's plan to reduce its reliance on coal and lignite, it is unreasonable to include in rate base coal and lignite fuel inventories that would allow the coal and lignite power plants to run at either 30 or 45 days continuous full load production levels. [CARD Exh. 3 – Norwood Dir. at 8]

22. In light of AEP/SWEPCO's plan to reduce its reliance on coal and lignite, it is reasonable to include in rate base coal and lignite fuel inventories that would allow SWEPCO's Flint Creek, Pirkey, Turk, and Welsh plants to enough fuel to supply 30-days of operations at the Test Year average daily burn levels for those plants. [CARD Exh. 3 – Norwood Dir. at 9]

23. SWEPCO announced it will retire Dolet Hills no later than December 31, 2021. [CARD Exh. 3 – Norwood Dir. at 5]

24. SWEPCO's lignite-inventory targets do not reflect the reduction in energy produced from the Company's Dolet Hills unit over the last several years, or the upcoming retirement of Dolet Hills by the end of 2021 [CARD Exh. 3 – Norwood Dir. at 7]

25. SWEPCO's lignite-inventory targets for Dolet Hills assume operation of the plant at full load. [CARD Exh. 3 – Norwood Dir. at 8]

26. In light of SWEPCO's announcement to retire Dolet Hills by December 31, 2021, Dolet Hills will no longer be used and useful after its retirement at the end of 2021, and therefore it is reasonable to disallow entirely SWEPCO's requested lignite inventory for Dolet Hills. [CARD Exh. 3 – Norwood Dir. at 9]

Self-Insurance Reserve

27. SWEPCO requests approval of a self-insurance reserve pursuant to 16 Tex. Admin. Code § 25.231(b)(1)(G). SWEPCO's proposed self-insurance reserve is based on an annual accrual of $1,689,700 which consists of $799,700 for average annual transmission and distribution property losses of at least $500,000 and $890,000 to achieve a reserve of $3,560,000 within four years. [CARD Exh. 2 – M. Garrett Dir. at 36]

28. 16 Tex. Admin. Code § 25.231(b)(1)(G) requires that the "electric utility must present a cost benefit analysis performed by a qualified independent insurance consultant who demonstrates that, with consideration of all costs, self-insurance is a lower-cost alternative than commercial insurance and the ratepayers will receive the benefits of the self-insurance plan." [CARD Exh. 2 – M. Garrett Dir. at 36]

29. SWEPCO's cost-benefit analysis does not contain any analysis of the actual costs of commercial insurance as it does with regard to the actual costs of SWEPCO's proposed self-insurance reserve. [CARD Exh. 2 – M. Garrett Dir. at 36]

Distribution Vegetation Management

30. SWEPCO requests to increase its vegetation management expense by $5 million above the test-year expense of $9.57 million for a total Texas Retail jurisdictional expense level of $14.57 million. [CARD Exh. 2 – M. Garrett Dir. at 37]

31. In Docket No. 37364, the Commission approved $10 million expressly dedicated to SWEPCO's vegetation management practices. [*See* CARD's Reply Brief at 19]

32. In Docket No. 40443, the Commission approved a $3.1 million increase in SWEPCO's vegetation management spending. [*See* CARD's Reply Brief at 19]

33. In SWEPCO's most recent rate case, Docket No. 46449, SWEPCO was awarded a $2 million increase over its 2016 test year level for vegetation management spending. [CARD Exh. 2 – M. Garrett Dir. at 37]

34. SWEPCO reported an overall SAIFI of 1.73 for 2016 and 1.79 for the test year in this proceeding. [CARD Exh. 2 – M. Garrett Dir. at 38]

35. Other than a slight decrease in SWEPCO's vegetation-related SAIFI rating from 2019 to the Test Year (0.73 to 0.72), SWEPCO's vegetation-related SAIFI and SAIDI ratings have increased from 2016 to the Test Year despite fluctuations – both annual increases and decreases – in the level of its vegetation-management spending. [OPUC Exh. 1 – Cannady Dir. at 50]

36. SWEPCO's proof of increased System Average Interruption Duration Index ("SAIDI") and System Average Interruption Frequency Index ("SAIFI") ratings is based entirely only on the circuits that SWEPCO was able to clear using the additional funds that the Commission awarded it in Docket No. 46449. While there was a positive reliability impact on those distribution circuits, those circuits represent only 3.3% of the total number of SWEPCO's overhead distribution circuits in Texas. [SWEPCO Exh. 10 – Seidel Dir. at 18]

37. A public utility is required to spend more than the level approved in a rate case, if a higher level of spending is necessary to provide safe and reliable service to customers. [CARD Exh. 2 – M. Garrett Dir. at 39]

38. SWEPCO's request to increase its vegetation-management spending by $5 million, which is an approximate 50% increase from its Test Year level of expense, is not warranted given: 1) the historical lack of improvement in SWEPCO's system-wide reliability metrics despite prior increases in vegetation management spending; and 2) non-correlation of its historical vegetation-related reliability metrics and historical levels of vegetation management spending. [CARD Exh. 2 – M. Garrett Dir. at 37-38]; [OPUC Exh. 1 – Cannady Dir. at 50]

Payroll Expenses

39. SWEPCO requests an increase of $2,143,713 in payroll expense, which includes an increase of 3.5%to reflect raises in pay occurring after the end of Test Year. [CARD Exh. 2 – M. Garrett Dir. at 32]

40. SWEPCO's proposed 3.5% payroll expense increase is an inappropriate piecemeal, post-test year adjustment because there is no consideration given to other factors that might offset the increase in payroll expense such as employee turnover, workforce reorganizations, productivity improvements, and capitalization ratio changes. [CARD Exh. 2 – M. Garrett Dir. at 31-32]

41. SWEPCO's payroll costs declined from the beginning of the test year through the end of the Test Year and continuing through December 2020 because of decreases in the number of employees. [CARD Exh. 2 – M. Garrett Dir. at 32]

42. SWEPCO's 3.5% payroll increase took effect on October 1, 2020 and its payroll cost increased above the test year level. SWEPCO's annualized base pay for the post-test year pay periods from October through December 2020 was 0.87% more than the base pay for the test year. [CARD Exh. 2 – M. Garrett Dir. at 33]

43. It is appropriate to increase SWEPCO's payroll expense by 0.87% above the test year level because it is a known and measurable change to SWEPCO's test year expenses and accounts for off-setting cost reductions such as the decline in the number of employees through the end of the test year and continuing to December 2020. [CARD Exh. 2 – M. Garrett Dir. at 33]

44. SWEPCO's proposed payroll increase is reduced by $585,976 for the Texas retail jurisdiction. [CARD Exh. 2 – M. Garrett Dir. at 33]

45. SWEPCO proposed to increase its payroll costs allocated from AEPSC by $3.8 million, or 9.8% above test year levels. [CARD Exh. 2 – M. Garrett Dir. at 34]

46. SWEPCO reported that 189 AEPSC employees accepted a retirement incentive package offered by the Company. [CARD Exh. 2 – M. Garrett Dir.at 34]

47. AEPSC post-test year payroll costs were comparable to the test year, increasing only 0.24%. [CARD Exh. 2 – M. Garrett Dir. at 34]

48. It is reasonable to set AEPSC payroll expenses at the test year level to reflect the reduction in employee levels that offset almost all pay increases that occurred in the post-test year period. This adjustment reverses SWEPCO's proposed AEPSC payroll increase of $1,489,989 for the Texas retail jurisdiction. [CARD Exh. 2 – M. Garrett Dir. at 34]

Incentive Compensation

49. SWEPCO (1) adjusted its test year levels for short-term incentives down to their target levels (which represents market levels); (2) removed that portion of its incentive plan costs based directly on financial goals; and (3) further adjusted its incentive plan costs for the financial

funding component of the plans. SWEPCO is requesting the recovery of $5,933,784 for its annual incentive plan. SWEPCO similarly adjusted the allocated AEPSC annual incentive plan costs to include $3,454,378 of those expenses in its revenue requirement. [CARD Exh. 2 – M. Garrett Dir. at 15]

50. In Docket Nos. 43695 and 46449, the Commission disallowed 100% of short-term incentives directly tied to financial performance measures and 50% of the remaining incentives because they were indirectly tied to financial performance through an earnings-per-share ("EPS") funding mechanism. [CARD Exh. 2 – M. Garrett Dir. at 16]

51. SWEPCO proposed to remove its short-term incentive costs directly related to financial performance, and removed 35% of the remaining incentives, which represents 50% of the Company's 70% funding mechanism tied to its EPS. [CARD Exh. 2 – M. Garrett Dir. at 16]

52. SWEPCO changed to an EPS threshold of 100% for 2020 because of the uncertainty related to COVID-19. [CARD Exh. 2 – M. Garrett Dir. at 16-17]

53. The actual financial component of SWEPCO's funding mechanism as of the end of the Test Year was 100% rather than 70%. [CARD Exh. 2 – M. Garrett Dir. at 17]

54. It is reasonable to disallow 50% of the actual 100% of SWEPCO's funding mechanism that was tied to SWEPCO's EPS at the end of the Test Year. This results in an $856,586 reduction for the Texas retail jurisdiction to SWEPCO's expenses for its short-term incentive plan. It is also reasonable to reduce the related payroll taxes by $55,381 for the Texas retail jurisdiction [CARD Exh. 2 – M. Garrett Dir. at 17-18]

55. For similar reasons, it is reasonable to reduce the amount of AEPSC's short-term incentive costs allocated to SWEPCO by $391,044 for the Texas retail jurisdiction. [CARD Exh. 2 – M. Garrett Dir. at 19]

56. SWEPCO seeks to include $371,024 for the Texas retail jurisdiction for its long-term incentive plan costs. SWEPCO's long-term incentive plans include performance units and restricted stock units ("RSUs"). SWEPCO has removed the costs associated with performance units from its request because they are tied to financial performance targets. [CARD Exh. 2 – M. Garrett Dir. at 24]

57. SWEPCO is not entitled to recover through rates its long-term incentive compensation cost that are associated with restricted stock units ("RSUs"). RSUs are tied to financial performance measures since the value of the compensation is directly tied to the value of AEP's stock price and they are designed to align the interest of AEP's management with the interest of shareholders and to promote the financial success and growth of AEP. [CARD Exh. 2 – M. Garrett Dir. at 25]

Depreciation – Production Plant Net Salvage

58. SWEPCO's demolition cost estimates are not known and measurable because some of the costs may not be incurred until 50 years in the future and some of the costs may never be incurred at all. [CARD Exh. 1 – D. Garrett Dir. at 7]

59. It is unreasonable to apply 10% contingency factors to SWEPCO's demolition cost estimates because the 10% contingency factors are arbitrary and because the underlying estimates are not known and measurable. [CARD Exh. 1 – D. Garrett Dir. at 8]

60. It is unreasonable to apply a 2.22% cost escalation factor to SWEPCO's demolition cost estimates because the underlying costs are not known and measurable. The 2.22% escalation factor is also unreasonable because it is not proper to charge current ratepayers for a future cost that has not been discounted back to present value because that ignores the time value of money. [CARD Exh. 1 – D. Garrett Dir. at 9]

Depreciation – Service Lives

61. The L0.5-75 Iowa curve is more reasonable than SWEPCO's proposed S0-68 Iowa curve for Account 353—Transmission Station Equipment. [CARD Exh. 1 – D. Garrett Dir. at 12-13]

62. The S1.5-74 Iowa curve is more reasonable than SWEPCO's proposed L3-65 Iowa curve for Account 354—Transmission Towers and Fixtures. [CARD Exh. 1 – D. Garrett Dir. at 13-15]

63. The L1.5-49 Iowa curve is more reasonable than SWEPCO's proposed S0-68 Iowa curve for Account 355—Transmission Poles and Fixtures. [CARD Exh. 1 – D. Garrett Dir. at 15-16]

64. The L1.5-80 Iowa curve is more reasonable than SWEPCO's proposed R2-70 Iowa curve for Account 356—Overhead Conductors and Devices. [CARD Exh. 1 – D. Garrett Dir. at 16-17]

65. The L0-62 Iowa curve is more reasonable than SWEPCO's proposed S-.5 Iowa curve for Account 364—Distribution Poles, Towers and Fixtures. [CARD Exh. 1 – D. Garrett Dir. at 17-19]

66. The R4-80 Iowa curve is more reasonable than SWEPCO's proposed R4-70 Iowa curve for Account 366—Underground Conduit. [CARD Exh. 1 – D. Garrett Dir. at 19-20]

67. The R1-62 Iowa curve is more reasonable than SWEPCO's proposed R3-46 Iowa curve for Account 367—Underground Conductor. [CARD Exh. 1 – D. Garrett Dir. at 20-21]

68. The R1.5-76 Iowa curve is more reasonable than SWEPCO's proposed R3-59 Iowa curve for Account 369—Distribution Services. [CARD Exh. 1 – D. Garrett Dir. at 22-23]

69. The O2-21 Iowa curve is more reasonable than SWEPCO's proposed L0-15 Iowa curve for Account 370—Meters. [CARD Exh. 1 – D. Garrett Dir. at 23-24]

<u>Rate of Return and Cost of Capital</u>

70. A capital structure composed of 50.63% long-term debt and 49.37% equity is reasonable in light of SWEPCO's business and regulatory risks. [CARD Exh. 4 – Woolridge Dir. at 23]

71. A capital structure composed of 50.63% long-term debt and 49.37% equity will allow SWEPCO to attract capital from investors. [CARD Exh. 4 – Woolridge Dir. at 55, 85]

72. A ROE of 9.00% will allow SWEPCO a reasonable opportunity to earn a reasonable return on its invested capital. [CARD Exh. 4 – Woolridge Dir. at 55, 85]

73. The results of the discounted-cash-flow model and risk-premium approach support an ROE of 9.00%. [CARD Exh. 4 – Woolridge Dir. at 4, 55, 85]

74. A 9.00% ROE is consistent with SWEPCO's business and regulatory risk. [CARD Exh. 4 – Woolridge Dir. at 4-5, 55, 85]

75. SWEPCO's proposed 4.18% embedded cost of debt is reasonable. [CARD Exh. 4 – Woolridge Dir. at 23]

76. SWEPCO's overall rate of return is as follows:

COMPONENT	CAPITAL STRUCTURE	COST OF CAPITAL	WEIGHTED AVG COST OF CAPITAL
LONG-TERM DEBT	50.63%	4.18%	2.11%
COMMON EQUITY	49.73%	9.00%	4.44%
TOTAL	100.00%		6.56%

[CARD Exh. 4 – Woolridge Dir. at 4]

Rate Case Expenses

77. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in this proceeding for the period of October 15, 2020 through June 30, 2021 in the amount of $_____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021][1]

78. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in Docket No. 50997 for the period of January 1, 2021 through June 30, 2021 in the amount of $____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021]

79. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in Docket No. 49042 for the period of December 2018 through June 30, 2021 in the amount of $____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021]

80. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in Docket No. 47141 for the period of April 13, 2020 through June 30, 2021 in the amount of $____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021]

81. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in Docket No. 46449 for the period of April 13, 2020 through June 30, 2021 in the amount

[1] With regard to CARD's Proposed Findings of Fact Nos. 77 – 84, addressing CARD's rate-case expenses, CARD does not have all invoices through June 30, 2021, in time to include those amounts in its proposed FOFs, but will update those amounts upon receipt of all invoices.

of $____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021]

82. CARD presented evidence supporting the reasonableness of its rate case expenses incurred in Docket No. 40443 for the period of April 13, 2020 through June 30, 2021 in the amount of $____. [CARD Exh. 5 – Webking Dir. at Attachment CJW-2 and CARD's Rate Case Expense Update Filing of July 6, 2021]

83. It is reasonable to reduce the amount of CARD's reimbursable rate case expenses incurred in Docket No. 47141 by $3,821. [*See* CARD Reply Brief at 46-47]

84. The total amount of rate case expenses that CARD reasonably incurred in Docket Nos. 40443, 46449, 47141, 49042, 50997, and 51415 is $_____.

Generation O&M Expense

85. SWEPCO's proposed rate increase does not adjust the Test Year O&M expense for Dolet Hills to reflect the scheduled retirement of the plant by the end of 2021. [CARD Exh. 3 – Norwood Dir. at 6]

86. During the Test Year SWEPCO incurred approximately $12.5 million in non-fuel O&M expense related to its 257 MW (40.28%) ownership share of Dolet Hills. [CARD Exh. 3 – Norwood Dir. at 5]

87. After SWEPCO retires Dolet Hills at the end of 2021, SWEPCO will avoid significant non-fuel O&M expenses for operations of Dolet Hills. [CARD Exh. 3 – Norwood Dir. at 5]

88. SWEPCO operates Dolet Hills almost entirely during the summer months, thus the O&M expenditures for the plant are likely to be greatly reduced, if not zero, by the time the Commission issues its final, appealable order in this proceeding. [CARD Exh. 3 – Norwood Dir. at 5-6]

89. From 2017 through 2019, Dolet Hills Net Capacity Factor declined from 35.4% in 2017, to 26.4% in 2018, to 20.6% in 2019. [CARD Exh. 9 at 2, 9, and 15]

90. SWEPCO's request for non-fuel O&M expense ignores the fact that it retired five gas-fired generating units during and immediately preceding and following the Test Year. [CARD Exh. 3 – Norwood Dir. at 6]

91. The retirement of SWEPCO's five gas-fired units is a known and measurable change that reduces SWEPCO's O&M expenses relative to the amount SWEPCO incurred during the Test Year by $1.1 million on a Total Company Basis. [CARD Exh. 3 – Norwood Dir. at 6]

Purchased Capacity Expenses

92. SWEPCO's request to recover [*****BEGIN CONFIDENTIAL $XXXXXX END CONFIDENTIAL*****][2] it incurred during the Test Year to purchase operating reserves from Cajun Electric Power Cooperative, Inc. ("Cajun Contract") through base rates. [CARD Exh. 3A – HS Norwood Dir. at 3]

93. SWEPCO is proposing to treat the Cajun Contract costs as capacity costs. [CARD Exh. 3 – Norwood Dir. at 10]

94. The Cajun Contract costs SWEPCO incurred to purchase operating reserves are energy costs and as such are costs to be recovered through its fuel factor rather than through base rates. [CARD Exh. 7 – Norwood Cross-Rebuttal at 4]

95. SWEPCO's imputed capacity costs associated with its four Wind Purchase Power Agreements ("PPAs") have a cumulative nameplate rating of approximately 470 MW and an imputed capacity value of $9.13/kW-year. [CARD Exh. 7 – Norwood Cross-Rebuttal at 4-5]

Cost Allocation and Rate Design

<u>Class Allocation</u>

96. The cost assignment methodology SWEPCO presented in its rate-filing package and direct testimony as initially filed is the methodology the Commission approved in Docket No. 46449. [*Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing at FOF 277(Mar. 19, 2018)]

97. In its rebuttal case addressing its class cost of service study, SWEPCO deviated from the allocation factors the Commission approved in Docket No. 46449 by changing the components of prepayment balances included in rate base; and by changing the quantification

[2] CARD has not presented amount SWEPCO proposes to recover under the Cajun Contract because SWEPCO considers the amount to be highly sensitive and confidential.

and allocation of costs for Major-Account Representative recorded in FERC Account 909. [SWEPCO Exh. 54 – Aaron Rebuttal at 6-7; *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing at FOFs 297-299 (Mar. 19, 2018)]

98. In its as-filed case SWEPCO proposed to allocate both primary and secondary line transformer costs (FERC Account 368) among the customer classes on the same percentage basis. [SWEPCO Exh. 54 – Aaron Rebuttal at 2]

99. The Commission approved of SWEPCO's as-filed proposed allocation of line transformer costs in Docket No. 46449. [CARD Exh. 19]

100. In its rebuttal case addressing its class cost of service study, SWEPCO adjusted the allocation of line transformer costs from the allocation SWEPCO proposed in its as-filed case. [SWEPCO Exh. 54 – Aaron Rebuttal at 2]

101. SWEPCO's as-filed case proposed assignment of selected distribution investments from the wholesale jurisdiction directly to the wholesale class. [SWEPCO Exh. 54 – Aaron Rebuttal at 6]

102. In its rebuttal case addressing its class cost of service study, SWEPCO changed the assignment of costs from its as-filed case, so that there are no directly assigned costs to the wholesale class. [SWEPCO Exh. 54 – Aaron Rebuttal at 6]

103. For each of its deviations from the cost-allocation methodology the Commission approved in Docket No. 46449, SWEPCO failed to establish changed circumstances to support its proposed departure from the cost-allocation methodology the Commission approved in Docket No. 46449. [SWEPCO Exh. 54 – Aaron Rebuttal at 2-7]

104. It is reasonable to adjust as a known-and-measurable change SWEPCO's load and customer data for the Test Year to reflect the closure of US Steel at Lone Star, Texas and at Hughes Springs, Texas; Domtar at Ashdown, Arkansas; and Libbey Glass at Shreveport, Louisiana by the end of 2020. [ETSWD Exh. 1 – Pevoto Dir. at 8]

105. The transitory effects of the COVID-19 Pandemic are neither fully known nor measurable to support a change in SWEPCO's billing determinants. [CARD Exh. 8 – Nalepa Cross-Rebuttal at 2]

106. The Commission Staff's proposal to phase in over four years the rates established in this proceeding, ignores that customers' consumption patterns change year-to-year and thus the Staff's 4-year phase in plan cannot be said to result in just and reasonable rates. [CARD Exh. 8 – Nalepa Cross-Rebuttal at 6]

II. CONCLUSIONS OF LAW

1. SWEPCO is subject to the Public Utility Regulatory Act (PURA). Tex. Util. Code §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017).

2. SWEPCO is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6)

3. The Commission exercises regulatory authority over SWEPCO, and jurisdiction over the subject matter of this application under PURA §§ 14.001, 32.001, 32.101, 33.002, 33.051, and 36.001-.112.

4. SOAH has jurisdiction over matters related to the conduct of the hearing and the preparation of a proposal for decision in this docket, under PURA § 14.053 and Tex. Gov't. Code § 2003.049.

5. This docket was processed in accordance with the requirements of PURA and the Texas Administrative Procedure Act, Texas Government Code chapter 2001.

6. SWEPCO provided notice of its application in compliance with PURA § 36.103 and 16 Texas Administrative Code (TAC) § 22.51(a).

7. Under PURA § 33.001, each municipality in SWEPCO's service area that has not ceded jurisdiction to the Commission has jurisdiction over the company's application, which seeks to change rates for the distribution services within each municipality.

8. Pursuant to PURA § 33.051, the Commission has jurisdiction over an appeal from a municipality's rate proceeding.

9. SWEPCO has the burden of proving that the rate change it is requesting is just and reasonable pursuant to PURA § 36.006.

10. In compliance with PURA § 36.051, SWEPCO's overall revenues approved in this proceeding permit SWEPCO a reasonable opportunity to earn a reasonable return on its

invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses.

11. Consistent with PURA § 36.053, the rates approved in this proceeding are based on original cost, less depreciation, of property used and useful to SWEPCO in providing service.

12. The removal from rate base of SWEPCO's remaining investment in the Dolet Hills generating plant is consistent with 16 Tex. Admin. Code §§ 25.5(10) and 25.231(c)(2)(F)(iii)(II) because SWEPCO retired the plant prior to the commencement of the rate year. [***This COL 12 is only to be included in the event the Commission issues a final order after December 31, 2021. See CARD's Reply Brief at pp. 3-4***]

13. The establishment of a regulatory liability to accumulate the return on SWEPCO's remaining Dolet Hills investment is consistent with 16 Tex. Admin. Code § 25.231(c)(2)(C). [***This COL 13 is only to be included in the event the Commission issues a final order on or before December 31, 2021. See CARD's Reply Brief at pp. 3-4***]

14. The return on equity (ROE) and overall rate of return authorized in this proceeding are consistent with the requirements of PURA §§ 36.051 and 36.052.

15. In accordance with PURA §§ 33.055(a), 36.111(b), and 36.211(c), the effective date of rates resulting from this case is the date the Commission enters its final, appealable order in this proceeding.

16. In accordance with PURA §§ 33.055(a), 36.111(b), and 36.211(c), the rate year for the change in rates the Commission approves begins on the date the Commission enters its final, appealable order in this proceeding.

17. The cost benefit analysis SWEPCO relied on to support its request for a self-insurance reserve does not meet the requirements of 16 Tex. Admin. Code § 25.231(b)(1)(G).

18. 16 TAC § 25.231(b)(1)(b) provides that depreciation expense based on original cost and computed on a straight-line basis as approved by the Commission shall be used, but other methods may be used when the Commission determines that such depreciation methodology is a more reasonable means of recovering the costs of plant.

19. 16 TAC § 25.231(b) provides that in computing a utility's reasonable and necessary operating expenses, the Commission should consider historical test year expenses as adjusted for known and measurable changes.

20. Utilities seeking recovery or municipalities seeking reimbursement of rate-case expenses have the burden to prove the reasonableness of such expenses by a preponderance of the evidence to include those amounts in customers' rates.

21. SWEPCO and CARD established that the rate-case expenses each incurred are reasonable to include in customers' rates.

22. The rate-case expenses SWEPCO is seeking to recover, including CARD's costs incurred pursuant to PURA § 33.023, are for participating in proceedings under PURA and are, therefore, recoverable pursuant to PURA § 36.061(b).

23. SWEPCO's rates, as approved in this proceeding, are just and reasonable in accordance with PURA § 36.003.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The proposal for decision prepared by the SOAH administrative law judges is adopted to the extent consistent with this order.

2. SWEPCO's application is granted to the extent consistent with this order.

3. The transmission-cost-recovery-factor and the distribution-cost-recovery-factor baseline values as requested by SWEPCO shall be developed and set during the compliance phase of this docket in *Compliance Tariff for Final Order in Docket No. 51415 (Application of Southwestern Electric Power Company for Authority to Change Rates)*, Control No. ______.

4. SWEPCO will record, as a regulatory liability, SWEPCO's return on the undepreciated value of its investment in the Dolet Hills generation plant. This regulatory liability will accumulate from January 1, 2022, until the effective date of the new rates resulting from SWEPCO's next base rate case. [***This Ordering Paragraph No. 4 is only to be included if the Commission issues its Final Order on or before December 31, 2021***]

5. SWEPCO shall file tariffs consistent with this order within 20 days of the date of this order in *Compliance Tariff for Final Order in Docket No. 51415 (Application of Southwestern Electric Power Company for Authority to Change Rates)*, Control No. ______. No later than ten days after the date of the tariff filings, Staff shall file its comments recommending approval, modification, or rejection of the individual sheets of the tariff proposal. Responses to Commission Staff's recommendation shall be filed no later than 15 days after the filing of the tariff. The Commission shall by letter approve, modify, or reject each tariff sheet, effective the date of the letter.

6. The tariff sheets shall be deemed approved and shall become effective on the expiration of 20 days from the date of filing, in the absence of written notification of modification or rejection by the Commission. If any sheets are modified or rejected, SWEPCO shall file proposed revisions of those sheets in accordance with the Commission's letter within ten days of the date of that letter, and the review procedure set out above shall apply to the revised sheets.

7. Copies of all tariff-related filings shall be served on all parties of record.

8. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

Respectfully submitted,

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ATTORNEYS FOR CITIES ADVOCATING REASONABLE DEREGULATION

CERTIFICATE OF SERVICE

I hereby certify that on this the 1st day of July, 2021 a true and correct copy of the ***Cities Advocating Reasonable Deregulation's Proposed Findings of Fact and Conclusions of Law*** was served upon all parties via electronic mail in compliance with SOAH Orders Nos. 4 and 13, and with the Commission's Order Suspending Rules, issued in Project No. 50664.

By: */s/ Leslie Lindsey*
Leslie Lindsey